

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
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Rockville, Maryland 20850

www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2740

PETITION OF CHILDREN'S INN AT NIH, INC.

OPINION OF THE BOARD

(Opinion Adopted March 11, 2009)

(Effective Date of Opinion: March 27, 2009)

Case No. S-2740 is an application for a special exception, pursuant to Section 59-G-2.21 for a charitable or philanthropic institution. The Hearing Examiner for Montgomery County held a hearing on the application on January 26, 2009, closed the record in the case on February 2, 2009, and on February 27, 2009 issued a Report and Recommendation for approval of the special exception.

Decision of the Board: Special Exception **Granted** Subject
To Conditions Enumerated Below.

The subject property is Lot 48, Block 2, Northwest Park Subdivision, located at 8300 Woodmont Avenue, Bethesda, Maryland 20814 in the PD-75 Zone.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on March 11, 2009. The Board also had before it a letter from Robert G. Brewer, Esquire and April H. Birnbaum, Esquire, on behalf of the Petitioner. Mr. Brewer and Ms. Birnbaum request slight changes to the Report and Recommendation to reflect, 1) at page four, in the initial paragraph, that the square footage of the single-family dwelling on the subject property contains "**approximately**" 7,000 square feet; and 2) at page 12 of the Report that "**NIH has a contract with Montgomery County Public schools to provide schooling to Children's Inn patients, which is supplemented by private tutors, and these services will be available to Woodmont House residents.**"

After careful consideration and review of the record in the case, the Board adopts the Hearing Examiner's Report and Recommendation, with the changes requested by

Mr. Brewer and Ms. Birnbaum, and **grants** the special exception, subject to the following conditions:

1. Petitioner shall be bound by all of its testimony and exhibits of record, including the final Site Plan, Exhibit 30(a), and by any representations made by Petitioner's counsel that are identified in this report or in the Board's Opinion in this matter.
2. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits or a use-and-occupancy permit, necessary to implement the special exception as granted herein. Petitioners shall at all times ensure that the special exception use and facility comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Carolyn J. Shawaker, seconded by Walter S. Booth, with Stanley B. Boyd, David K. Perdue, Vice-Chair and Catherine G. Titus, Chair, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 27th day of March, 2009.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.